

# LIBERTY AND VOCATEE.

WHEN POWERS ARE ASSUMED WHICH HAVE NOT BEEN DELEGATED, A NULLIFICATION OF THE ACT IS THE RIGHTFUL REMEDY.—Jefferson.

WES & SMILEY, EDITORS.

LIBERTY, (MI.) SATURDAY, JANUARY 20, 1838.

VOL. 3.—NO. 1.

## GOVERNOR'S MESSAGE.

Men of the Senate  
of the House of Representatives:

A season of unusual pressure and derangement of commercial operations, arising out of the general derangement of the fiscal concerns; when every energy has been exerted to bear up under a combination of the most untoward circumstances, and when the distress brought upon the country has been borne with unequalled patience by a warm and confident people, relying upon the wisdom and wisdom of Congress, for the adoption of a measure that should at least wear the appearance of general relief: we are to understand that we must shift for ourselves—that the regulation of, or interference with these great interests, does not come within the province of that body, and in obedience with this extraordinary idea, nothing has been effected beyond providing for the mere fiscal operations of the government through the Treasury Department, and the extension of the House Bonds. Chagrined and disappointed at this avowal, and the policy pursued by the government, patriotic spirits with disgust from the indifference with which the best interests of his country had been neglected, and with renewed confidence upon the state authorities. Thrown upon their own resources, the necessity of your aid becomes the more urgent. At such juncture, your arrival, as the immediate representatives of the people of Mississippi at the seat of government, is auspicious, and will be hailed as the precursor of better things.

The existing embarrassment of the community and its impending distress, upon you under the emergency, to some degree, for the improvident measures and omissions of previous legislatures, by restoring, as far as your action can effect it, that wanted confidence and aid to enterprise and business, upon which the country has been accustomed to rely and prosper.

I do not concur in the opinion so currently advanced that legislation can effect nothing; and far less am I disposed to indulge in cold unfeeling lectures upon industry and economy, when in my own fellow citizens are about to be stripped of their last pittance. It is true that there are instances of individual distress, which, in change of times, however favorable, could relieve, and which are consequently beyond the reach of your aid; but this remark is very far from being applicable to the community at large. There is a general embarrassment hanging over us, which, for the moment, impedes the rapid growth and prosperity of the State; but the rich product of the present season, with the addition of that of the next, will go very far to relieve the community from its present difficulties; and the buoyant spirit—the untiring energy, and the persevering enterprise of our citizens, need only to be aided by the credit of the State, to rise superior to these severe, but temporary reverses.

The pressing demand for money, and the very limited facilities for obtaining it, make it incumbent upon your body to adopt some measure that may enable our citizens to anticipate another crop, and to maintain as a spring to industry, a portion of the means now in their possession to operate upon.

I submit with due deference the following suggestions for your consideration, as bearing more or less directly upon the subject, and presenting the most probable means of effecting the object. First—whether existing circumstances do not require some action that shall sustain the banks, and at the same time secure to individuals an additional accommodation—whether the sanction of your body to the charter of the "Mississippi Union Bank," should not be immediately followed by certain amendments—whether our present difficulties do not demand your prompt action in authorizing the issue of five or six millions of dollars in State Bonds—and lastly, whether an expression of your body relative to the establishment of a National Bank may not be proper.

The latest information relative to the European money market, presents the prospect of a favorable negotiation of the State bonds proposed to be issued under the charter of the "Mississippi Union Bank."

On a former occasion, I suggested, that in the organization of such an institution involving so deeply the interest and credit of the State, the attention of the legislature would properly be directed to a close scrutiny of the provisions of its charter; and in throwing around it the most guarded restrictions for the greater safety of the State; and to that communication I again invite your consideration. In addition to the amendments there recommended, I will here remark, that the policy of the provision entitling the State to one-tenth of the whole profits of the bank in consideration of its bonds may be well

questioned. The State can have no motive in making such a transaction a matter of profit. In loaning its credit to carry into effect this institution, it should be influenced from higher considerations, that of the interest and prosperity of the whole community. All it can desire, is an ample indemnity against the risk and any ultimate loss on the bonds. It would accord better perhaps with the character and interest of the State, to substitute for this provision, the insertion of some additional security to the State.

There seems to be some ambiguity in the construction to be placed upon the eighth section, as to the value to be fixed upon the property mortgaged for the payment of stock by subscribers. From its reading I arrive at the conclusion, that all the property mortgaged for that purpose, with the exception of houses, is to be taken at its fair valuation as fixed by the commissioners. From the ninth section I understand that the corporation is invested with a discretionary power to loan, to negotiate, to take mortgages and pledges, and to discount on such terms, and such securities as they shall judge proper. This clause would seem to apply to mortgages given for the payment of notes discounted, and not for those given for stock; and vests the power in the corporation to take the property proposed to be mortgaged at its estimated value, or to make any deduction they may think proper. The twenty-sixth section, however, makes the discretionary power general, and the inference is, that the board of directors have the right to receive the mortgaged property at its appraised value, both in payment of stock subscribed for, and for the payment of notes discounted. This feature must be highly objectionable. It is calculated to produce heartburnings and much dissatisfaction. If the property of one applicant be received at valuation by the commissioners, and that of another be reduced, the consequences may be readily conceived. I therefore recommend that this discretion given the board be restricted; and for the better security of the State, that it be enjoined upon it not to take property offered at more than one half the value placed upon it by the commissioners, or at most two-thirds.

The demands that are now bearing most heavily upon our citizens, and in the arrangement of which there is most difficulty, are those of non-residents; and if a prolonged suspension of specie payments on the part of the banks should be deemed indispensable, a general demand for specie in payment of debts may be apprehended. Under the Constitution of the United States, bank notes are not a legal tender; yet from general usage their receivability in payment of all debts contracted in the State is strongly implied. The person who contracts a debt, has the undoubted right to stipulate for its payment in such issues as constitute the circulating currency of the State; but from their ready convertibility into specie for years past, the necessity for such stipulations was not thought of. This fact, with a reference to the existence of an abundant mixed currency at the time these debts were contracted, and a combination of circumstances subsequently causing a sudden failure of the banks to redeem their notes with specie, and thereby giving to it a value over its representative which did not previously exist, should be quite sufficient either to waive the demand for specie, or to induce the utmost forbearance on the part of creditors. An attempt on their part to extort specie, and thus secure to themselves the premium it commands, in addition to the legal interest, which under their contracts is all that was anticipated, would be scarcely less exceptionable than a direct interference on the part of the legislature. To quiet the apprehension alluded to, and to spare our citizens so severe an additional trial, the propriety of some timely aid through the action of your body can scarcely be doubted.

Under the impression that an enlarged accommodation was necessary to meet the crisis, when all confidence was destroyed by a sudden revulsion in our pecuniary matters, I was induced at the late session of the legislature to recommend, and anticipated some relief from the *Post Note* the banks have so far declined

almost unlimited.

dence, seems to have given way to an unreasonable distrust, and a widely extended credit was suddenly followed by a refusal on the part of the Banks to extend any accommodations. On a similar occasion, and during a severe pressure in London, when the Bank of England thought it not advisable to enlarge its issues to meet the increased demand, Parliament, by the loan of exchequer bills speedily relieved the distress. I mention this circumstance as demonstrating the fact, that an enlarged accommodation at such a crisis is necessary to the restoration of confidence.

For this purpose I recommend to your favorable consideration the issue of five or six millions of dollars in State bonds drawing an interest of six per cent. and redeemable in three years. The object of this measure may be carried into effect by the establishment of a loan office for that purpose; or it may be done by an arrangement with some of our banks. If by a loan office, the bonds may be loaned directly to individuals upon the notes at one and two years, properly endorsed, and secured if necessary by a mortgage on real estate, and at a discount of eight or nine per cent. That such bonds will be freely received in the payment of debts due from our citizens need not be doubted.

If, however, a suitable arrangement can be made with the Banks, it is probable that the restoration of confidence will be more general, and that this mode will afford increased facilities. If this latter plan be adopted, the bonds may be loaned to the selected banks, upon such terms as may be agreed upon: requiring of them to issue post-notes, to the amount loaned, drawing an interest to correspond with that of the Bonds, and payable at six or twelve months, as may be thought most advisable, in New York, Philadelphia, and Baltimore, in the current bank bills of these cities. This scheme imposes no additional responsibility on the banks, as I presume the bonds can be disposed of in the Northern market at par, so as to place the banks in funds to redeem their issues before maturity. And as the circulating currency of the States in which the contemplated issues are made payable, will be readily received in discharge of demands against our citizens; specie need not be exacted by the banks here, in the disposition of the Bonds, which may probably facilitate their negotiation. It may be required of the banks to collect and place to the credit of the State the proceeds of the notes they discount, and that the Bonds shall not be sold below their par value.

To this measure of relief, it may possibly be objected, that the right of the States to emit bills of credit, is restricted by the Constitution of the United States—that the scheme is impracticable from the idea that a circulating medium pre-supposes and makes necessary something based upon, and readily converted into coin—and that the inhibition imposed by our Constitution in pledging the faith of the State, presents by its formalities, a barrier to your immediate action. As this plan presents to my mind, the best, and indeed the only immediate prospect of relief, I shall give to these anticipated objections, a passing notice, with a view of presenting the measure in a more especial manner to your deliberate determination.

I do not know whether the question may be considered as finally settled by the Supreme Court of the United States. The opinion of the Court as delivered in the case of *Craig vs. the State of Missouri*, and the opinion as to the constitutionality of the Commonwealth Bank, of the State of Kentucky, so far as the principle was involved, are variant and may be considered as neutralizing each other.

The Constitution of the United States, by common consent, seems to have given to the General Government the control of national and joint concerns; but reserving those of a different character to the States respectively. It seems therefore, to comport with the rights that appertain to each, and the control to be exercised by the General and State Governments, that Congress should create and regulate a National credit currency, leaving that of the States to be managed by State authorities; and that from its local character, not involving the credit or liability of the General Government, the restriction does not bear on the contemplated issues. It has been the long established practice of the States by their action to emit bills of credit so called, in the form of bank notes, through their institutions; and whether it be strictly constitutional or not, the States still claim and exercise the privilege, under at least a prescriptive right, that will not be seriously questioned.

The second objection is not applicable; inasmuch as the proposed issues will not constitute the circulating medium of the State. They are intended for a special and limited purpose, to meet a present exigency. But if it did, the inconvenience complained of, is counteracted by the facts, that in ordinary times there will exist no difficulty in converting the Bonds into specie—that the perfect security for their ultimate redemption, together with the circumstance of their drawing interest, will supercede to a great extent, the desire or necessity of their conversion.—The idea is sustained by the fact, that State Bonds drawing an interest of six per cent. have been readily converted into coin, at a handsome premium; and this circumstance offers a sufficient guarantee to their general receivability, equaling at least, and I should suppose, surpassing that of our present bank issues.

The prohibition alluded to in the 9th section of General provisions, does not

bear upon the measure under consideration. It is not proposed to borrow money, nor to pledge the faith of the State for the payment, or redemption of any loan or debt, growing out of such loans; but for the ultimate redemption of its Bonds loaned to individuals upon the most approved security. The object of the provision, from its reading, is very apparent, and was clearly intended to guard against hasty and imprudent pledges of the faith of the State, to raise a loan of money for the establishment of banking institutions. The Legislature at its late session in passing an act relative to the reception of the surplus revenue; pledging the faith of the State for its safe-keeping and return when called for, has virtually confirmed the construction here given to the provision.

The establishment of a National Bank at some short period, is much relied upon as promising the most efficient and speedy corrective, for the existing evils and distress.—But the time necessary for carrying into effect so important a measure, the objections to be met and overcome, together with the great difficulty in settling the details of the charter: all conspire to place such an anticipation upon a fond hope, rather than any well founded probability; and the unfavorable action of Congress at its late session upon the subject, however it may be regretted, serves to show the futility of further reliance upon a foreign dependency, and the necessity of devising other means to avert the mischief with which we are threatened.

If our immediate interest was alone consulted, the establishment of a National Bank would perhaps loose much of its importance. If there is one State in the Union above all others, that can dispense with such an institution, it is Mississippi. Our great staple commodity furnishes the means by which the issues of a powerful State Bank, properly organized, and backed by the credit and faith of the State, could be made to supersede, to a great extent, the necessity of a National Bank. I shall not, however, be found the advocate of a policy so contracted and selfish. A National currency is a National concern, and properly to be urged upon the advantages to result to the Nation, and not those of a State.

The propriety of a single banking institution, fostered by the State, with a view to the enhanced credit and extended circulation of its currency, as above hinted at, is an opinion long entertained and expressed. The amount of banking capital chartered by the State, is not so much to be objected to, as the numerous independent banks through which it is wielded. If, therefore, a plan at some future period could be digested, so as to induce the banks to surrender their charters, and to consolidate their capital into one or even two State institutions, I feel satisfied that it would have the most salutary effect in giving to its issues an extended credit and confidence; that those of the numerous banks, already chartered, can never realize.

I believe, however, in order to ensure a sound, uniform currency at home and abroad; even with the existence of such a State institution, it would be better to have a branch of a National Bank located amongst us, that they may act as checks upon each other. I do not wish to be understood as being indifferent to the establishment of a National Bank, freed from some well founded objections to its former organization and usages: on the contrary, from the best reflections I have been able to bestow upon the subject, I believe it to be essentially necessary to the Government as a fiscal agent, and for the regulation of the national currency.

A proposition, which has excited some sensation, has been thrown out as a compromise, for the purpose of facilitating this object. The terms are an amendment of the Constitution of the United States, giving to Congress the power to act: and by fixed provision to vest in that body the entire control of the banking capital of the Union—to prevent its increase, and to provide for its decrease; until the capital among the States shall be reduced to a ratio that may be deemed safe by Congress; and the States abjure the power of incorporating a bank beyond the amount of capital fixed as the ratio.

No scheme has yet been proposed less equivocal in its nature, or more directly tending to sup and merge in the withering influence of a separate and independent bank government, the sovereign action of the States. We should not wantonly jeopardize the stability of the government by tampering with the constitution in the way of amendments. It is not necessary, in order to effect the object desired: and as a precedent, it is impossible to predict the consequences that might result from the experiment.

That there are evils to be encountered in a National Bank, may be freely admitted: but they are incident to, and perhaps inseparable from, the whole banking system which is irrevocably fastened upon us; and which must endure as long as

the government itself. The establishment therefore of such an institution, is rather a matter of necessity than choice. And upon this necessity, and the consequent implied power, I would also rest the action of Congress.—The dangerous political influence that a National Bank is capable of wielding may be dreaded; but how are we to lessen the evil? The objection will apply with at least equal force to the mode of operating through the State Banks. The power of a National Bank is open, palpable, and standing separate and apart from those of the State, its operations will be closely scanned, and the States will be more vigilant in guarding against its bad effects. But the Federal agency and controlling influence operating through the State Banks, is insidious and prevailing, and consequently more to be dreaded.

CHARLES LYNCH.

## A LETTER FROM MR. CALHOUN.

FORT HILL, Nov. 3, 1837.

GENTLEMEN: It is with very great reluctance I decline your kind invitation to take of a public dinner, (in Pendleton district, South Carolina.) From no quarter and no occasion could an expression of approbation be more acceptable; but so short is the interval between this and the next regular session of Congress, and so indispensable is it that I should devote it exclusively to my domestic concerns, preparatory to my long absence from home, that I am compelled to decline the honor intended.

In saying that on no occasion could an expression of your confidence be more welcome, I intend no unmeaning common place. During the long period of my public service, never have I seen a more important crisis than the present, and in none have I ever been compelled, in the discharge of my duty, to assume a greater responsibility. I saw clearly on my arrival at Washington, at the commencement of the late extra session, that our affairs had reached the point when, according to the course we might take, we should reap the full harvest of our long and arduous struggle against the encroachments and abuses of the General Government, or lose the fruits of all our labor. I clearly saw that our bold and vigorous attacks had made a deep and successful impression. State interposition had overthrown the Protective Tariff, and with it the American system, and put a stop to Congressional usurpation; and the joint attacks of our party and that of our old opponents, the National Republicans, had effectually brought down the power of the Executive, and arrested its encroachment of power, from whatever quarter it might come, we did not hesitate, after overthrowing the protective system, and arresting legislative usurpation, to join the authors of that system, in order to arrest the encroachments of the Executive, although we differed as widely as the poles on almost every other question, and regarded the usurpation of the Executive but as a necessary consequence of the principles and policy of our new allies. In joining them, we were not insensible to the embarrassment of our position. With such allies, success was difficult, and the victory itself, without a change of principles and policy on their part, dangerous; and, accordingly, while we united with them against the Executive, we refused all participation in the Presidential contest. But, with all its embarrassments, it was the only practicable course left us, short of abandoning our principles, or the country, by retiring altogether from the field of contest. In this embarrassing position, we waited the development of events, with the fixed determination that, let what might come, we would inflexibly pursue the course which regarded for our principles and the success of our cause demanded.

Such was the position we occupied, from 1833, when our contest with the General Government terminated, to the commencement of the late extra session, when it became manifest a great change had been effected, which could not but have a powerful influence over our future course. It soon became apparent, after the meeting of Congress, that the joint resistance of ourselves and our late allies, in conjunction with the course of events in reference to the currency, had brought down the lofty pretensions of the Executive Department. The union between the government and the money power, which had so greatly strengthened those in authority at first, had not only ceased, but were forced to take ground against the re-union of the two, and to make war against those very banks which had been the instruments of their power and aggrandizement. Forced to take this position, and divested, in a great measure, of patronage and influence, from the exhausted state of the Treasury, they were compelled to fall back, as the only means of saving themselves, on the principles of 1827, by which we had ejected from office the National Republican party, and to which our portion of the old party of '27 have in-